

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

California Independent System Operator
Corp.

Docket No. ER21-1469-000

MOTION OF POWEREX CORP. TO INTERVENE AND COMMENTS

Pursuant to Rules 212 and 214 of the Federal Energy Regulatory Commission's ("Commission") Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 214 (2020), Powerex Corp. ("Powerex") hereby moves to intervene and submit comments concerning the California Independent System Operator Corp.'s ("CAISO") proposed revisions to its tariff to modify its framework for determining the quantity of import capability available to support resource adequacy ("RA") contracts with external resources ("import RA contracts").¹

**I.
CORRESPONDENCE AND COMMUNICATIONS**

All correspondence and communications in this proceeding should be directed to the following persons:

Mike Benn
Energy Trade Policy Analyst
Powerex Corp.
666 Burrard Street, 13th Floor
Vancouver, British Columbia
Canada V6C 2X8
Phone: (604) 891-6074
Fax: (604) 891-7012
mike.benn@powerex.com

Deanna E. King
Bracewell LLP
111 Congress Avenue,
Suite 2300
Austin, Texas 78701
Phone: (512) 494-3612
Fax: (512) 479-3912
deanna.king@bracewell.com

¹ *Cal. Indep. Sys. Operator Corp.*, Available Import Capability Multi-Year Allocation, Docket No. ER21-1469-000 (filed Mar. 18, 2021) ("Filing").

Stephen J. Hug
Tracey L. Bradley
Bracewell LLP
2001 M Street NW, Suite 900
Washington, D.C. 20036
Phone: (202) 828-5800
Fax: (800) 404-3970
stephen.hug@bracewell.com
tracey.bradley@bracewell.com

Powerex requests that the foregoing persons be placed on the official service list for this proceeding and respectfully requests waiver of Rule 203(b)(3) of the Commission's regulations, 18 C.F.R. § 385.203(b)(3), in order to permit designation of more than two persons for service in this proceeding.

II. MOTION TO INTERVENE

A. Interest Of Powerex

Powerex is a corporation organized under the *Business Corporations Act* of British Columbia, with its principal place of business at Vancouver, British Columbia, Canada. Powerex is the wholly owned power marketing subsidiary of the British Columbia Hydro and Power Authority ("BC Hydro"), a provincial Crown Corporation owned by the Government of British Columbia. Powerex sells power at wholesale in the United States, pursuant to market-based rate authority originally granted by the Commission on September 24, 1997.² Powerex sells

² See *British Columbia Power Exch. Corp.*, 80 FERC ¶ 61,343 (1997); *British Columbia Power Exch. Corp.*, Docket No. ER97-4024-012 (Sept. 12, 2000) (unpublished letter order); *Powerex Corp.*, Docket No. ER01-48-002 (Oct. 30, 2003) (unpublished letter order); *Powerex Corp.*, Docket No. ER01-48-007 (July 26, 2007) (unpublished letter order); *Powerex Corp.*, Docket No. ER01-48-018 (Oct. 29, 2010) (unpublished letter order); *Powerex Corp.*, Docket Nos. ER10-3297-003, *et al.* (Aug. 29, 2014) (unpublished letter order); *Powerex Corp.*, Docket Nos. ER17-704-000, *et al.* (Jan. 25, 2018).

energy and capacity from a portfolio of resources in the United States and Canada, including Canadian Entitlement resources made available under the Columbia River Treaty, BC Hydro system capability, and various other power resources acquired from other sellers within the United States and Canada. Powerex is an active participant in the CAISO day-ahead and real-time markets, and the bilateral market for RA in California and throughout the west.

B. Motion To Intervene

As an active participant in the CAISO markets and seller of RA products, Powerex has a direct, immediate, and substantial interest that cannot be adequately represented by any other party and will be directly affected by any Commission action in this proceeding. Powerex's intervention is in the public interest, and it therefore moves for leave to intervene in this proceeding.

III. BACKGROUND

In its filing, CAISO explains that it is proposing to revise the framework that it uses to determine the quantity of import capability that is made available to support import RA contracts, with the goal of facilitating multi-year, forward contracting.³ Under the existing RA framework, all import RA contracts must be supported by an allocation of import capability.⁴ The existing Available Import Capability allocation process is a 13-step process that CAISO conducts on an annual basis to determine the quantity of import capability that is available to

³ Filing at 1-2

⁴ *Id.* at 3.

support import RA contracts in the upcoming year.⁵ After reducing the quantity of import capability to reflect physical constraints and capacity necessary to address legacy transmission rights that predate the existence of the CAISO markets, CAISO assigns the remaining import capability to California load-serving entities (“LSE”) on a load ratio share basis.⁶

CAISO explains that import capability allocated through the existing process is only available for a single year.⁷ Because the import capability allocated to a particular LSE can change from year-to-year, CAISO notes that the existing framework has the potential to limit the ability of California LSEs to enter into multi-year forward RA commitments with external suppliers.⁸ To help support forward contracting, CAISO proposes to permit LSEs to reserve import capability at the intertie level for shown multi-year import RA contracts.⁹

More specifically, CAISO proposes to permit a LSE to “reserve” up to 75% of its total year-ahead import capability allocation at the intertie level if it demonstrates that it has entered into a “New Use Import Commitment,” which is defined to include purchases from pseudo-tied or dynamically-scheduled resources.¹⁰ CAISO explains that an LSE’s “reservation” of import capability will terminate upon the expiration of the initial term of the New Use Import

⁵ *Id.* at 1.

⁶ *Id.* at 5.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* at 6.

Commitment.¹¹ CAISO states that it is requiring that New Use Import Commitments be backed by pseudo-tied or dynamically scheduled resources in order to ensure that any commitments are supported by specific, dedicated resources, but that it may consider expanding the definition of New Use Import Commitments following the implementation of additional measures to verify the supply supporting import RA contracts.¹²

IV. **COMMENTS**

Powerex supports the CAISO's stated objective of ensuring that its Available Import Capability allocation process does not create barriers that limit the ability of California LSEs to enter into multi-year, forward import RA contracts. As CAISO acknowledges in its filing, tighter grid conditions in California and throughout the west are increasing competition among LSEs to secure forward commitments from those entities that continue to have surplus capacity and flexibility available to meet needs outside their own regions.¹³ California LSEs may face challenges, however, in entering into multi-year forward commitments due to uncertainty regarding the quantity of import capability that they will be able to obtain at a given intertie point from one year to the next.

CAISO's proposal represents an attempt to reduce barriers to multi-year forward contracting through a narrow enhancement that will allow an LSE to reserve import capability upon a showing that it has entered into an RA contract

¹¹ *Id.*

¹² *Id.* at 6-7.

¹³ *Id.* at 5.

with a pseudo-tied or dynamically scheduled resource. Notably, however, at present there is little to no dynamic scheduling capability available on key transmission paths to support pseudo-ties or dynamic schedules. As a result, the quantity of import RA contracts that will be able to qualify as New Use Import Commitments under CAISO's proposal is likely to be very limited. Nevertheless, CAISO's proposal represents an incremental limited improvement over the status quo. For that reason, Powerex does not oppose CAISO's proposed tariff revisions.

Powerex notes, however, that CAISO recently commenced a stakeholder process to consider broader structural changes to the Available Import Capability allocation framework, including the interplay between this process and the physical use of the grid. To avoid prejudging potential future issues or controversies, Powerex urges the Commission to avoid any statement when ruling on CAISO's proposal that could be viewed as treating an allocation of import capability as conferring a physical transmission right.

While the CAISO states that its proposal is intended to allow LSEs to "reserve" import capability, it is important to recognize that—notwithstanding CAISO's terminology in its filing—the Available Import Capability allocation process is not a framework for reserving the physical capability of the CAISO grid. Instead, the Available Import Capability allocation process is an accounting framework designed to help ensure that the quantity of import RA contracts at a given intertie does not exceed the physical capability of the grid. In fact, CAISO recognized as much when originally proposing to revise its tariff to establish an Available Import Capability allocation framework:

The Import Capability Assignment Amendments do not affect physical transmission capability of the ISO Controlled Grid, transmission rights, or the manner in which transmission service is obtained under the ISO Tariff. Rather, the Import Capability Assignment Amendments only apply to the right to “count” resources for resource adequacy reporting obligations as a part of a forward planning process.¹⁴

Powerex believes that any attempt to recast the Available Import Capability allocation framework as a mechanism for assigning physical transmission rights would present serious open access concerns and would need to be considered separately from the very limited enhancements that have been proposed in this docket. The existing Available Import Capability allocation framework is largely limited to LSEs; other market participants, in contrast, are only given limited opportunities to obtain import capability.¹⁵ Allocating physical transmission rights through a process that only is open to a limited subset of market participants would be fundamentally inconsistent with the open and competitive process for allocating transmission required by Commission policy, as originally set out in orders creating the Commission’s *pro forma* open access transmission tariff structure.

In order to avoid prejudging the outcome of the CAISO stakeholder process, Powerex encourages the Commission to undertake its review of the CAISO’s

¹⁴ *Cal. Indep. Sys. Operator Corp.*, Assignment of Import Capability for Resource Adequacy Purposes, Transmittal Letter at 1 (filed Mar. 22, 2007). See also *Cal. Indep. Sys. Operator Corp.*, 119 FERC ¶ 61,164 at P 5 (2007).

¹⁵ For example, a non-LSE may obtain import capability where an eligible LSE elects to sell or assign import capability on a bilateral basis, where there is import capability remaining at the end of the allocation process, or in certain other limited instances. Historically, the quantity of import capability available for other market participants has been limited. For instance, only 112 MW of import capability was made available to non-LSEs at the end of the allocation process for 2021. http://www.caiso.com/Documents/2021Step13CAISONotification_UnassignedCapability.pdf.

proposal specifically with the foundational understanding that the CAISO's current Available Import Capability allocation framework represents a counting mechanism designed to help ensure the deliverability of import RA contracts, and is not a mechanism for providing access to physical transmission rights.

V.
CONCLUSION

Wherefore, for the foregoing reasons, Powerex requests the Commission to grant this intervention and issue an order consistent with the comments above.

Respectfully submitted,

/s/ Deanna E. King

Stephen J. Hug
Tracey L. Bradley
Bracewell LLP
2001 M Street NW, Suite 900
Washington, D.C. 20036
Phone: (202) 828-5800
Fax: (800) 404-3970
stephen.hug@bracewell.com
tracey.bradley@bracewell.com

Deanna E. King
Bracewell LLP
111 Congress Avenue
Suite 2300
Austin, Texas 78701
Phone: (512) 494-3612
Fax: (512) 479-3912
deanna.king@bracewell.com

On Behalf of Powerex Corp.

April 8, 2021

CERTIFICATE OF SERVICE

Pursuant to Rule 2010 of the Commission's Rules of Practice and Procedure, I hereby certify that I have this day served a copy of the foregoing on all persons designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C. this 8th day of April, 2021.

/s/ Stephen J. Hug

Stephen J. Hug